

*et seq.*), the Secretary is responsible for the enforcement of the provisions of the Act and Convention that pertain to the importation, exportation, or re-exportation of terrestrial plants.<sup>1</sup> The regulations in this part are for the purpose of implementing this authority. Regulations of the U.S. Department of the Interior that correlate with the regulations in this part are contained in 50 CFR chapter I.<sup>2</sup>

[66 FR 21060, Apr. 27, 2001]

### § 355.2 Definitions.

Terms used in the singular form in this part shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this part, shall be construed, respectively, to mean:

*Act.* The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

*Convention.* The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, 27 U.S.T. 1087, signed on March 3, 1973, and the Appendices thereto.

*Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, U.S. Department of Agriculture, or any other officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

*Engage in business as an importer, exporter, or reexporter of terrestrial plants.* To import, export, or reexport terrestrial plants for the purpose of selling, bartering, collecting, or otherwise ex-

changing or acquiring the plants as a livelihood or enterprise engaged in for gain or profit. This term shall not include persons engaged in business merely as carriers or customhouse brokers.

*Export (exported, exporting, exportation).* To carry, send, take, transport or otherwise remove, or to attempt to carry, send, take, transport or otherwise remove from any place subject to the jurisdiction of the United States.

*Import (imported, importing, importation).* To land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

*Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the Act and Convention, and regulations promulgated thereunder.

*Person.* Any individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof or of any foreign government.

*Plant.* Any member of the plant kingdom, including seeds, roots and other parts thereof.

*Plant Protection and Quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Act and Convention, and regulations promulgated thereunder.

*Reexport (reexported, reexportation).* To export following importation.

*Secretary.* The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his or her stead has been or may hereafter be delegated.

*Terrestrial plants.* Any plants (including epiphytic plants), except marine plants.

<sup>1</sup>Under section 11 of the Act (16 U.S.C. 1540), it is unlawful for any person to knowingly violate any provision of the Act, any permit or certificate issued under the Act, or any regulation promulgated under the Act. Section 11 of the Act also provides for criminal, civil, and administrative penalties for any such violation.

<sup>2</sup>Plant Protection and Quarantine also administers programs under the Lacey Act Amendments of 1981, as amended (16 U.S.C. 3371 through 3378), 7 U.S.C. 2814, and the Plant Protection Act (7 U.S.C. 7701–7772), which authorize additional prohibitions and restrictions on the importation of plants subject to this part (see other parts of 7 CFR chapter III for regulations containing prohibitions and restrictions under these authorities).

*Validation.* An original stamp, signature, and date of inspection placed upon documentation required by 50 CFR part 17 or part 23 by an inspector at the port where the terrestrial plants are to be imported, exported or reexported.

*United States.* Any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

### Subpart—Permission to Engage in Business

#### § 355.10 Permission to engage in business concerning nonlisted terrestrial plants.

The Secretary hereby grants permission for any person engaged in business as an importer, exporter, or reexporter of terrestrial plants, other than terrestrial plants listed in 50 CFR 17.12 or 23.23, to engage in such business without a general permit issued under § 355.11.

#### § 355.11 General permits.<sup>3</sup>

(a) On or after March 26, 1985 no person shall engage in business as an importer, exporter, or reexporter of any terrestrial plants listed in 50 CFR 17.12 or 23.23 unless such person has obtained a general permit for engaging in such business from Plant Protection and Quarantine.

(b) An application for a general permit shall be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, 4700 River Road, Unit 139, Riverdale, Maryland 20737-1236. The

completed application shall include the following information:<sup>4</sup>

- (1) Date of application;
- (2) Applicant's name, mailing address, and telephone number;
- (3) If the applicant is an individual, the business affiliation, if any, having to do with the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23;
- (4) If the applicant is in the name of a business or if the applicant is affiliated with a business which imports, exports, or reexports terrestrial plants listed in 50 CFR 17.12 or 23.23, the form of the business, e.g., corporation, firm, partnership; and the name and address of each partner, officer, director, holder, and owner of 10 percent or more of the voting stock, and employee in a managerial or executive capacity;
- (5) The address of all applicants' business locations, including but not limited to locations of nurseries, growing fields, propagating beds, holding beds and similar facilities where activities relating to terrestrial plants listed in 50 CFR 17.12 or 23.23 would be conducted;
- (6) A brief and complete description of the nature of the applicant's business as it relates to engaging in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR 17.12 or 23.23;
- (7) Any address where books or records concerning the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23 would be kept;
- (8) Name, address, and telephone number of the person authorized to make records or plant inventories available for examination by inspectors or other duly authorized representatives of the Secretary; and
- (9) Certification by signature of the applicant (must be a partner or officer if the applicant is a business) after the following language: "I hereby certify

<sup>3</sup>This permit is named a "general permit" in order to avoid confusion with "permits" obtained under the Act from the U.S. Department of the Interior to accompany the importation, exportation, or reexportation of plants under U.S. Department of the Interior regulations. General permits are also so named to avoid confusion with permits obtained from Plant Protection and Quarantine for the importation of plants under the Plant Protection Act (7 U.S.C. 7701-7772) and 7 U.S.C. 2801 note and 7 U.S.C. 2814.

<sup>4</sup>Application forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, 4700 River Road, Unit 139, Riverdale, Maryland 20737-1236, or from local offices at any of the ports designated in 50 CFR part 24. Telephone numbers and addresses of local offices are listed in telephone directories.